

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

MICHAEL E. HAGA)
)
V.) NO. 2:04-CV-88
)
JO ANNE B. BARNHART,)
Commissioner of Social Security)

REPORT AND RECOMMENDATION

Counsel for plaintiff have filed a Motion [Doc. 16], pursuant to 42 U.S.C. § 406(b), for an award of attorney fees in the amount of \$7,513.00. The fee agreement between counsel and the plaintiff provided for a fee of 25% of past due benefits if the plaintiff prevailed, which he did. The Administrative Law Judge previously approved a fee of \$15,056.25. The requested fee of \$7,513.00 represents the remainder of 25% of the past due benefits awarded. The Commissioner does not oppose the request. Plaintiff's counsel were previously awarded \$1,975.00 by this Court under the Equal Access to Justice Act. This sum will be refunded to the plaintiff by his counsel upon the granting of this Motion.

It is respectfully recommended that this Motion be GRANTED, and that counsel be awarded a fee from the past due benefits of \$7,513.00. It is further recommended that counsel be ordered to refund the fee received under the Equal Access to Justice Act of \$1,975.00.¹

Respectfully Recommended:

s/ Dennis H. Inman
United States Magistrate Judge

¹Any objections to this report and recommendation must be filed within ten (10) days of its service or further appeal will be waived. Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947-950 (6th Cir. 1981); 28 U.S.C. § 636(b)(1)(B) and (C).